

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	Crim. No. 07-00301 HG-002
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
MARIANITO LAGUATAN,	)	
	)	
Defendant.	)	
_____	)	

**ORDER GRANTING MOTION FOR REDUCTION OF SENTENCE PURSUANT TO  
RULE 35(b) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE**

On October 26, 2007, Defendant Marianito Laguatan ("Defendant") pled guilty, pursuant to a plea agreement, to attempted possession of 50 grams or more of methamphetamine with the intent to distribute, in violation of 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(A) (the single Count of the conviction). (ECF No. 81.) On February 20, 2008, Defendant was sentenced to 70 months imprisonment. (ECF No. 78.) The Court also imposed a five year term of supervised release and a fine of \$5,000. (ECF No. 109.) Judgment was entered on March 6, 2008. (ECF No. 83.)

On March 2, 2009, the Government filed an Amended Protective Motion for Reduction of Sentence Pursuant to Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), Rule 35(b). (ECF No. 95.) The Motion explained that Defendant provided information that led to wiretap orders that assisted government authorities in the seizure of drugs and identification of individuals

involved in drug trafficking. (Id. at 2.) The Government filed the protective Rule 35 Motion because the investigation was ongoing and the Defendant would potentially testify in the future. (Id.)

On June 17, 2013, the Government filed its Motion for Reduction of Sentence Pursuant to Fed. R. Crim. P. Rule 35(b). (ECF No. 109.) The Defendant cooperated with the United States in the preparation for the trial of Reynaldo Agudo (United States v. Reynaldo Agudo, Cr. No. 11-00382 LEK-06) and testified at trial on May 7, 2013. (Id. at 2.) The Defendant's testimony assisted in the prosecution of Agudo for conspiracy to distribute fifty grams or more of methamphetamine on Maui. (Id.)

Defendant has served his sentence of imprisonment. (Id.) He is currently in the custody of Immigration and Customs Enforcement pending removal proceedings. (Id.) The Government requests that the Court reduce Defendant's sentence, pursuant to Rule 35(b) of the Fed. R. Crim. P., by remitting the \$5,000 fine. (Id.)

#### **STANDARD OF REVIEW**

Federal Rules of Criminal Procedure Rule 35(b)(1) provides:

**(1) In General.** Upon the government's motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person.

Federal Rules of Criminal Procedure Rule 35(b)(2)(B) provides:

**(2) Later Motion.** Upon the government's motion made

more than one year after sentencing, the court may reduce a sentence if the defendant's substantial assistance involved:

. . .

(B) information provided by the defendant to the government within one year of sentencing, but which did not become useful to the government until more than one year after sentencing; . . .

A Rule 35 motion is essentially a plea for leniency and is addressed to the sound discretion of the district court. United States v. Smith, 964 F.2d 885, 887 (9<sup>th</sup> Cir. 1992); United States v. Hooton, 693 F.2d 857, 859 (9<sup>th</sup> Cir. 1982).

A district court may consider the 18 U.S.C. § 3553(a) factors to award a sentence reduction greater than, less than, or equal to the reduction of the defendant's assistance considered alone, would warrant. See United States v. Tadio, 663 F.3d 1042, 1055 (9<sup>th</sup> Cir. 2011).

#### **ANALYSIS**

The Court finds that Defendant substantially assisted the Government in the investigation and prosecution of criminal activity. A reduction of Defendant's sentence pursuant to Rule 35 (b) is appropriate. The Court grants remittance of the \$5,000 fine, based on the nature of the cooperation and consideration of the 18 U.S.C. § 3553(a) factors.

#### **CONCLUSION**

The Government's Motion to reduce Defendant's sentence is

GRANTED. The Court reduces the Defendant's sentence by remitting the \$5,000 fine. All other aspects of the Defendant's sentence remain unchanged.

IT IS SO ORDERED.

Dated: Honolulu, Hawaii, July 8, 2013.



/S/ Helen Gillmor

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Helen Gillmor  
United States District Judge

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United States of America v. Marianito Laquatan, Cr. No. 0700301  
HG-002; **ORDER GRANTING GOVERNMENT'S MOTION FOR REDUCTION OF  
SENTENCE FOR SUBSTANTIAL ASSISTANCE**